

Message Text

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ORIGIN OPIC-06

INFO OCT-01 AF-10 ISO-00 EB-08 AID-05 CIAE-00 COME-00
FRB-03 INR-10 NSAE-00 ICA-11 TRSE-00 XMB-02 SP-02
LAB-04 SIL-01 OMB-01 AGRE-00 IO-13 L-03 /080 R

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FM SECSTATE WASHDC
TO AMEMBASSY KHARTOUM

C O N F I D E N T I A L STATE 221692

FROM OPIC

E.O. 11652: GDS

TAGS: EINV

SUBJECT: SUDAN-REN FERTILIZER PROJECT

REF: KHARTOUM 3629

1. AS POST AWARE, OPIC HAS BEEN ASKED TO EXTEND INCON-
VERTIBILITY, EXPROPRIATION AND WAR DAMAGE COVERAGE TO
CERTAIN U.S. LENDERS WHO ARE FINANCING SUDAN-REN FERTILIZER
PROJECT. LOAN SYNDICATED BY HARTFORD NATIONAL BANK AS LEAD
WITH SIX OTHER PARTICIPANTS, AND WITH EQUATOR BANK AS AGENT.
LENDER/SUDAN-REN/GOS ARRANGEMENTS ESSENTIALLY PROVIDE THAT
(A) SUDAN-REN TO REPAY LENDERS IN DOLLARS; (B) IF SUDAN-
REN UNABLE TO PAY DOLLARS, (I) SUDAN-REN IS REQUIRED TO
DEPOSIT SUDANESE POUNDS IN "SECURITY ACCOUNT" AS SECURITY
FOR PAYMENT OF DOLLARS AND (II) AGENT, ON BEHALF OF LENDERS,
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ENTITLED UNDER GOS MINFIN GUARANTY TO REQUIRE GOS TO PAY TO
LENDERS DOLLARS OWED BY SUDAN-REN; AND (C) IF GOS UNABLE TO
PAY DOLLARS, AGENT ENTITLED REQUIRE GOS PAY POUNDS INTO
SECURITY ACCOUNT.

2. UNDER TERMS OF PROPOSED OPIC/LENDERS CONTRACT, LENDERS
ENTITLED TO INVOKE OPIC COVERAGE IF (A) LENDERS UNABLE TO

PROCURE ACTUAL CONVERSION TO DOLLARS OF POUNDS SUDAN-REN OR

GOS DEPOSITS IN SECURITY ACCOUNT; OR IF (B) GOS COMMITS ANY OF CERTAIN EXPROPRIATORY ACTS (STANDARD WITH ALL OPIC BANK CONTRACTS), WHICH PREVENTS LENDERS FROM RECEIVING SCHEDULED REPAYMENTS; OR IF (C) GOS BREACHES ITS GUARANTY UNDERTAKING TO PROVIDING DOLLARS TO REPAY THE LENDERS; OR IF (D) CERTAIN TYPES OF WAR DAMAGE PREVENT SCHEDULED REPAYMENT.

3. RESCHEDULING MENTIONED REFTTEL OF CONCERN TO OPIC SINCE FIRST, IT SUGGESTS GOS EXTREMELY SHORT OF FX, WHICH IN TURN MAKES IT PROBABLE THAT IF SUDAN-REN DEFAULTED ON LOAN PAYMENT IN NEAR FUTURE GOS, WOULD BE UNABLE TO SUPPLY DOLLARS CALLED FOR BY GUARANTY AND OPIC WOULD THEREFORE BE CALLED UPON BY LENDERS TO MAKE PAYMENT PURSUANT TO INSURANCE CONTRACTS; AND, SECOND, RESCHEDULING SUGGESTS POSSIBILITY OF CIRCUMSTANCE WHICH COULD ENTITLE LENDERS TO CALL IMMEDIATE DEFAULT ON LOAN AGREEMENT, TO WIT: (A) BOTH LOAN AGREEMENT AND GUARANTY CONTAIN REPRESENTATIONS THAT GOS EXECUTION OF GUARANTY DOES NOT CONTRAVENE ANY EXISTING AGREEMENTS TO WHICH GOS IS A PARTY. IF A RESCHEDULING AGREEMENT WITH ANOTHER GOS CREDITOR CONTAINED PROHIBITION ON ADDITIONAL GUARANTIES BY GOS, LOAN AGREEMENT AND GUARANTY REPRESENTATIONS WOULD BE INCORRECT. THIS MISREPRESENTATION COULD PRECIPITATE LENDER ACCELER-
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ATION OF LOAN AND PROJECT DEFAULT. ALSO, (B) LOAN AGREEMENT TREATS AS BREACH ANY ACTION BY GOS WHICH WOULD PERMIT (WHETHER OR NOT IT CAUSED) ANY OTHER PARTY TO AGREEMENT WITH GOS TO CALL A DEFAULT IN SUCH LATTER AGREEMENT; IF EXECUTION OF GUARANTY BY GOS WAS BREACH UNDER ANY SUCH

RESCHEDULING AGREEMENT, EXISTENCE OF THIS BREACH WOULD, UNDER LENDER/SUDAN-REN LOAN AGREEMENT CROSS DEFAULT CLAUSE, ENTITLE LENDERS TO ACCELERATE LOAN. THIS AGAIN (IN EVENT OF SUDAN-REN AND GOS FAILURES TO PAY DOLLARS TO LENDERS) WOULD LEAD TO LENDER CLAIM UNDER) OPIC CONTRACTS.

4. IN VIEW OF FOREGOING, OPIC REQUESTS FROM POST:
(A) ANY ADDITIONAL INFORMATION AVAILABLE ON PARTIES TO AND STATUS OF COMMERCIAL BANK RESCHEDULING ARRANGEMENTS;
(B) ANY AVAILABLE INFORMATION RE WHETHER RESCHEDULING AGREEMENTS INCLUDE PROHIBITION ON FURTHER GUARANTEES (I.E., SUCH AS THE ONE TO THE LENDERS) BY GOS; AND (C) DEGREE OF SENSITIVITY OF INFORMATION ON RESCHEDULING ARRANGEMENTS; SPECIFICALLY, OPIC RELUCTANT TO ALLOW HARTFORD GROUP TO PROCEED WITH SUDAN-REN LOAN IN IGNO-

RANCE OF CRITICAL TERM OF RESCHEDULING ARRANGEMENTS.

5. OPIC APPRECIATES POST ASSISTANCE IN THIS MATTER AND
WELCOMES ANY POST COMMENTS. CHRISTOPHER

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Message Attributes

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Copy: SINGLE
Draft Date: 31 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
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Drafter: AKEESEE
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